IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1059 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE R.S.GARG

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : YES

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

A P BHAVSAR SUPERINTENDING ENGINEER

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1059 of 2001

MRS KETTY A MEHTA for Petitioner No. 1

MS SANGEETA VISHEN, AGP for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 1-2

MR PARESH UPADHYAY for Respondent No. 2-3

MR SK PATEL for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE R.S.GARG

Date of decision: 19/04/2005

ORAL JUDGEMENT

Heard learned Counsel for the parties.

The petitioner is before this Court challenging the correctness, validity and propriety of the notification No. SLS/1399/16/E dated 17.1.2001 issued under the signature of the Deputy Secretary, Narmada Water Resources and Water Supply Department, Government of Gujarat, whereunder the respondent No.2 - Mr.V.M.Yagnik and the respondent No.3 - C.V.Nadpara have been promoted from the office and post of Superintending Engineer to the post of Chief Engineer and the case of the petitioner has been rejected.

The facts, in nutshell, are that the the petitioner was initially appointed as Assistant Executive Engineer in the year 1981 and thereafter he was promoted to the post of Executive Engineer in the year 1998 and was thereafter promoted to the post of Superintending Engineer on 29.7.1991, the post which he holds.

In the year 1994, the petitioner was considered for and was selected for his promotion to the post of Chief Engineer by the Departmental Promotion Committee, however, due to reduction in the number of posts subsequently and non-availability of the vacancy, he could not be promoted in the year 1994. According to the petitioner, his case for promotion to the post of Chief Engineer was again considered at the meeting of the Departmental Promotion Committee held in the month of February 2000 and he was selected and placed at Sr.No.1 of the select list as his performance was very good. The respondent Nos.2 and 3 were also included in the select list as they were also classified as very good, but they were placed at Sr.Nos.2 and 3 because they are junior to the petitioner. After the meeting of Departmental Promotion Committee which in the present case is known as Top Level Committee, prepared the select list. The matter at the instance of the State Government was referred to the Gujarat Public Service Commission (for short, 'GPSC') for effective consultation, the GPSC in its turn, reassessed everything and reported to the State Government that the petitioner could not be recommended or could not be included in the select list as a candidate having "very good" rate, but should be recommended as "Good" candidate. They accordingly submitted to the State Government that the names of respondent Nos.2 and 3 which were at Sr.Nos. 2 and 3 in the select list be placed at Sr.Nos.1 and 2 and the petitioner be placed at Sr.No.3. The State Government, after taking into consideration these recommendations

made by the GPSC and the select list prepared by the Top Level Committee, observed that the respondents Nos.2 and 3 who were at Sr.Nos.1 and 2 of the proposal made by the GPSC deserve to be promoted. The respondent No.2 was promoted as Chief Engineer and was posted as Managing Director of Gujarat Water Resources Development Corporation while the respondent No.3 was promoted as Chief Engineer and was posted as Chief Engineer (Saurashtra) and Additional Secretary, Sachivalaya, Gandhinagar.

The petitioner says and submits that the select list prepared by the Top Level Committee could not be interfered with by the Public Service Commission in the name of effective consultation. The petition has been argued on the following three grounds:

(1) As the post of Chief Engineer is equivalent to the office of the Additional Secretary, consultation with the Public Service Commission was not required in view of the notification of the State Government.

(2) The GPSC even if was to be consulted in accordance with Article 320 of the Constitution of India, then too, the Public Service Commission could not interfere with the select list as the select list is final under certain Government Resolutions (to which this Court shall refer at appropriate stage).

(3) The recommendations made by the Public Service Commission show absolute and utter non-application of mind.

Referring to the notification issued by the General Administration Department dated 8th October 1960, it was submitted that in exercise of the powers conferred by the proviso to clause (3) of Article 320 of the Constitution of India, the Governor of Gujarat has made the regulations called Gujarat Public Service Commission (Exemption from Consultation) Regulations, 1960 and in the schedule appended to such regulations, the posts of Secretaries, Additional Secretaries and Joint Secretaries to the Government find place, and as the post of the Chief Engineer is equivalent to the post of Additional Secretary, consultation was not required.

Combatting the said argument, learned Counsel for

the State Government submitted that a fair understanding of the regulation would show that it is in relation to the office of the Secretaries, Additional Secretaries and Joint Secretaries to the Government and not to the office/post of Chief Engineer.

The argument on behalf of the petitioner prima facie, appears to be attractive, but on a deeper probe would prove to be misconceived. Article 320(3) of the Constitution of India says that Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted --

(a) on all matters relating to methods of recruitment to civil services and for civil posts;

(b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;

(c) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;

(d) on any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the Consolidated Fund of India, or, as the case may be, out of the Consolidated Fund of the State;

(e) on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, and any question as to the

amount of any such award,

and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and on any other matter which the President, or as the case may be, the Governor of the State, may refer to them:

Provided that the President as respects the all-India services and also as respects other services and posts in connection with the affairs of the Union, and the Governor as respects other services and posts in connection with the affairs of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.

Article 320(3) would make it incumbent upon the Central Government so also on the State Government to consult the Union Public Service Commission or the State Public Service Commission as the case may be in relation to the items given in Clause (a) to (e) to Article 320(3). Clause (b) of sub-Article (3) is in relation to the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of the candidates for such appointments, promotions or transfers.

The proviso confers powers upon the President and the Governor as the case may be, to grant exemption in relation to the services for which ordinarily the consultation is mandatory. The powers conferred upon them are to make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for Public Service Commission to be consulted.

The notification dated 8th October 1960 is seriously pressed to the extent that if in relation to the office of Secretaries, Additional Secretaries and Joint Secretaries to the Government no consultation is needed, then no consultation would be required in relation to a post which is equivalent to the office of the Secretary etc.

In the opinion of this Court, a notification, regulation, rule etc. is to be read as it is. One cannot add anything to it nor anything can be interpreted in a manner to make it ineffective or create confusion.

On being asked that in case of the Officer, respondent No.3, i.e. Mr.C.V.Nadpara, if consultation was not necessary, whether consultation was necessary in relation to the promotion of V.M.Yagnik who has been promoted as Chief Engineer and has been posted as Managing Director, Gujarat Water Development Corporation, learned Counsel for the petitioner, being in the horns of dilemma was unable to give any positive reply. If in case of Mr.V.M.Yagnik, consultation with the Public Service Commission was mandatory and was incumbent upon the State Government, then in case of Mr.C.V.Nadpara, consultation was a must. It is also to be noted at this stage that the promotion is not to the post of Additional Secretary or Managing Director, but the promotion is to the post of Chief Engineer and the post of Chief Engineer does not fall or is included within the sweep of the Schedule appended to 1960 regulations. Under the circumstances, I must hold that if the promotion was to the post of Chief Engineer, then simple posting of somebody as Additional Secretary would not change the nomenclature or the cadre but the cadre would be of the Chief Engineer itself. The submission in relation to non-consultation or exemption from consideration on the strength of equivalence on the post is rejected.

So far as the second question is concerned, learned Counsel for the petitioner was vehement in referring to some of the Government Resolutions.

The Circular No.SLT-1175-G dated 1st December 1975 was referred to submit that the merit of the particular candidates is to be considered and they are to be graded in a particular manner. It was also submitted that in case like present, the seniority alone is not to be given unnecessary weightage but the competitiveness and compatibility are to be considered for the purpose of promotion. It was also submitted that while judging the performance of a candidate, the competent authority should not be guided merely by grading given or the Confidential Reports but an overall review of Confidential Reports should be made because the same would ensure balanced view of the performance of a candidate. Yet another reference was made to the Gujarat Civil Services Classification and Recruitment (General) Rules, 1967 to contend that in accordance with Rule 11-3(a) and (c), a particular candidate is to be catergorised in a particular manner and the appointment by promotion to the post shall be made on the principles of selectivity in respect of the seniority classifying the officer within the zone of consideration as "outstanding", "very good", "good", "unfit" etc. The

submission further was that the State Government was obliged to form a Top Level Committee for selection of persons to the posts mentioned in Clause (a) and by Government Resolution No. SLT-1589-4184-G2 dated 6.4.1990, the Government has proposed the constitution of the Top Level Selection Committee and has also observed that the recommendation made by the Top Level Selection Committee shall be final. It is to be noted at this place that the Top Level Selection Committee shall consist of the Chief Secretary, the Senior-most Secretary to Government next to the Chief Secretary, the Secretary of the Administrative Department concerned and if the senior-most Secretary to the Government next to the Chief Secretary happens to be the Secretary of the concerned Administrative Department then, their senior-most Secretary and Secretary (Personnel), General Administration Department. It is also submitted that on 20th May 21978, the Government had issued yet another Resolution No. SLT-1177-G dated 20th May 1978 in consultation with the GPSC that the recommendations made by or the select list prepared by the Top Level Selection Committee would be final and in any case, GPSC cannot interfere in the matter nor can lower down the grades given by the Top Level Selection Committee. To countermand the arguments raised by the learned Counsel for the petitioner, it was contended by the learned Counsel for the State that a fair understanding of the circulars and rules would mean that the Top Level Selection Committee would not be impressed by the grades given by the Departmental heads but they would reconsider the entire service record of the officer under consideration and would record their own opinion for purposes of the select list. It was also submitted that the consultation earlier had with the GPSC was for different purposes and was not in relation to Article 320 of the Constitution. It is submitted that in what particular manner a select list would be prepared was decided by the Government, but that would not adversely affect the right and authority of the GPSC to record its own findings. It is also submitted that if a finality is attached to the select list, then there can never be any effective consultation with GPSC and the word "consultation" used in Article 320 would become redundant, useless and otiose.

For proper appreciation of these arguments, one will have to refer to the notification and the Government circulars. The Government Circular dated 1st December 1975 says that the Government was pleased to observe that seniority should not be given undue weightage and merit should be rewarded in the administrative efficiency. In

order therefore to reward meritorious performance and to encourage such persons, Government was pleased to direct that while preparing the select list, it shall be permissible to give higher rank to the candidates possessing outstanding merit in the new select list and this higher rank need not be restricted upto six places higher only. This Government Circular does not adversely affect the powers of the Public Service Commission. This is to be noted that this Government Circular itself provides that it should be ensured in respect of all posts which are within the purview of the GPSC before giving promotions to the persons of outstanding merit who are proposed to be given ranks in the select list higher than those warranted by the consideration of seniority alone that the select list proposals with complete details are referred to the Commission and the advise obtained. From this Government circular, it would clearly appear that even after the select list is prepared and the outstanding candidates who are otherwise junior in the service should be placed over and above the seniors and their number is not to be restricted and consultation with GPSC was mandatory. Reference to paragraph 4 of this Circular was also made. Paragraph 4 says that while judging the performance of a candidate, the competent authorities should not be guided merely by the grading given in his C.Rs. but an over-all review of his C.Rs. should be made. This was observed by the State Government to ensure a balanced view of the performance of a candidate being taken in cases where the grading were not consistent with the item-wise remarks in the C.Rs.

In the considered opinion of this Court, this paragraph simply authorises the authority which has to prepare the select list to take into consideration the overall view of the C.Rs. of a candidate under consideration.

It is to be noted even at this place that in the Form in which the grades or C.Rs.. are to be written. Part-I of the Form is to be filled by the office. Part-II is to be filled by the officer himself, Part-III is to be filled by the Reporting Officer while Part-IV is to be filled by the Reviewing Officer. In a given case, the Reporting Officer may grade a particular officer by a particular grade and the Reviewing Officer may down-grade him from "very good" to "good", therefore, to avoid such a situation, the circular says that the C.Rs. alone should not be the guiding factor, but the authority shall take into consideration the over-all view of the his C.Rs. In the present matter, the Reporting Officer in

column No.10 has to give "overall assessment". For some years, the Reporting Officer reported the officer to be "very good" in his over-all assessment referred to in paragraph 10/column 10 of the appraisal. While in Part-IV, the Reviewing Officer accepted the assessment by the Reporting Officer in all respects as "very good", but reduced the grade of "very good" to "good" in column No.4 which related to the over-all assessment including mention of outstanding work, if any. It is to be seen that the Rules of 1967 in Rule 11-3 provide that the promotions are to be made on the basis of selectivity and the officers are to be graded as "outstanding", "very good", "good" and "unfit" and for purposes of preparation of the select list, the State Government was to form a Top Level Selection Committee for selection of persons to the posts mentioned in Clause (a). I have already referred to the constitution of the Top Level Selection Committee.

The Top Level Selection Committee in the present matter considered the service records of the petitioner and others and observed that the petitioner should be graded as "very good" and he being senior, should be placed at Sr.No.1. It is to be noted at this stage that the Top Level Selection Committee which has to review the over-all performance of the candidate under consideration and has to prepare a select list.

In the opinion of this court, inclusion of a particular person in the select list in absence of requirement of consultation with GPSC may be deemed to be final, but in a given case where for the purpose of Article 320 of the Constitution, consultation is to be made with the Public Service Commission then the select list is not to be accepted with blindfold. The matter in accordance with the directions of the State Government and the Government Resolutions is to be referred to the Public Service Commission for effective consultation which shall be in form of recommendation. The submission of the learned Counsel that the grades given by the Top Level Selection Committee cannot be interfered with by the GPSC if is accepted on its face then it is likely to create a chaotic condition rather it would create administrative chaos. In a given case if the Top Level Selection Committee places anybody at a particular Sr.No. and none has a right to interfere with it and none has a right to make a recommendation contrary to it, then the purpose of effective consultation would be lost. The consultation does not simply mean that a particular thing is to be referred to another Department and the other Department simply has to endorse the view of the first

Department and then the view of the first Department would be binding upon the Government.

The consultation which would include effective consultation within its sweep would mean that the entire record is placed before the GPSC and the GPSC is allowed to have the overall performance of a particular candidate or number of candidates and after giving their thoughtful consideration, they give their recommendations. In the present case, the reports/recommendations submitted by the GPSC were in the form of recommendations only and the State Government in its administrative capacity was obliged to consider the said recommendations. In the present matter, the select list was having its own importance while the recommendations made by the Public Service Commission have their own importance. True it is that the Top Level Selection Committee was not to be guided by the C.Rs. given in the service records and was to look into the entire service record relevant for the purpose of promotion but that would not mean that it could even correct the Confidential/Service reports of the candidate which otherwise were not challenged by the said candidate either in the department by making representation or by making appeal before the Tribunal or before the High Court under Article 226 of the Constitution of India. The grades given by the Reviewing Officer are final and finality is attached to them so far as the service records are concerned. So far as the question of promotion is concerned, the Top Level Selection Committee is given authority to make deep probe into the service records and record their own finding but it would be useful to note that they are not authorised to change the grades given by the Reporting Officer and/or by the Reviewing Officer. In the present matter, some of the grades which were given by the Reporting Officer were accepted by the Reviewing Officer. It is to be seen that number of reports are to be made in Part-III. A person is to be assessed in relation to clarity of thought, his ability to note and draft in Gujarati, his initiative, resourcefulness and willingness to assume responsibility, capacity for organisation and to get work from subordinates, capacity to take quick and sound decisions, character and temperament including relation with fellow officers and general public. The Reporting Officer has also to say about the ability of the officer in relation to exercise of delegated powers or does he have a tendency to refer cases back for guidance and that whether he correctly and objectively appraise the work of persons working under him, assessment of integrity is to be reported and if he has done any outstanding work, the same is to be reported.

The Reporting Officer has also to say about reprimand or disciplinary action if any, during the period under report and on the basis of these records, he has to grade the over-all assessment of the said officer.

In the present case, so far as the general assessment of the officer under review was concerned, it was accepted by the Reviewing Officer but he had not given "Very Good" grade for over-all assessment of the officer under report. It is to be noted that a person in different fields may be considered to be very good but his over-all assessment may not be very good. The submission of the learned Counsel for the petitioner that the Reviewing Officer could not down-grade the petitioner from "very good" to "good" in column No.4 relating to the over-all assessment, cannot be examined in these proceedings. In the present proceedings, the challenge is not to the authority of the Reviewing Officer to down-grade the petitioner from "very good" to "good" in his over-all assessment. If on basis of the particular facts brought on record, an officer is assessed as "very good" or "good", then that would be within the discretion of the Reporting Officer or the Reviewing Officer.

In the present matter, the Top Level Selection Committee simply found that the petitioner could not be down-graded from "very good" to "good" in his over-all assessment and therefore, he should have been taken as "very good" for all practical purposes. This obstruction is a matter of opinion. If in the opinion of the Top Level Selection Committee the petitioner was to be considered as "very good" then the said opinion would not be binding upon the GPSC while assessing the officer independently. In the present matter, if on the basis of the very same material, yet another office competent to review the efforts and works can report on the over-all assessment finds that the officer could not have been assessed as "very good" while assessing his over-all performance, then no wrong can be found in the recommendations made by the GPSC. The matter again is of the opinion. The High Court is not required to sit over the opinion formed either by the Top Level Selection Committee or by the GPSC unless it is shown that particular material which could have an important bearing on the opinion was either not considered or was not placed before the authority for consideration. In the present matter, I am unable to hold that the recommendations made by the GPSC could be ignored in light of the select list prepared by the Top Level Selection Committee. I must hold that the Top Level Selection Committee could form its own opinion in

preparing the select list and in accordance with the Government Resolutions and Article 320(3) of the Constitution of India, the matter was required to be referred to the Public Service Commission for their consultation and while reporting to the Government, the Public Service Commission had fullest authority to record its own opinion.

At this stage, it is submitted by the learned Counsel for the petitioner that down-grading of the C.Rs. from "very good" to "good" was not communicated to the petitioner therefore, the petitioner could not make any effective representation for upgrading him. The submission in fact is that if "good" is to be treated as "bad" for the purposes of promotion, then down-grading from "very good" to "good" would amount to recording an adverse C.R. In the opinion of this Court, this argument is not required to be considered in these proceedings because in these very proceedings, down-grading of the C.Rs. from "very good" to "good" is not under challenge. The petitioner would be free to take recourse to take remedy available to him for redressal of his grievance in relation to down-grading of the C.Rs.

It was next submitted that the Public Service Commission could not record any opinion contrary to the select list prepared by the Top Level Selection Committee. The submission is that if the Top Level Selection Committee has been authorised to act in a particular manner and the manner is provided either in the Government Resolutions or in the Statutory Rules or the Rules under Article 309, then any authority other than the Top Level Selection Committee could not record any finding adverse to the interest of the petitioner. Reliance was placed on a judgment of the Supreme Court in the matter of Shri Durgacharan Misra v. State of Orissa and ors., AIR 1987 SC 2267. In the said matter, no qualifying marks were prescribed for viva voce tests under the Rules. The Public Service Commission, however, to shortlist the candidates, provided the minimum qualifying marks. The Supreme Court observed that if the rules did not provide for any cut-off marks or minimum qualifying marks, then the Public Service Commission could not provide anything which was not in the rules. The said matter is not an authority in relation to the effect and impact of the consultation. In the matter of Shri Durgacharan Misra (supra), the Supreme Court had observed that the said rules were framed under Article 309 read with Article 234 of the Constitution of India and if that was so, the Public Service Commission had no authority under the law to amend the rules made under

Article 309 of the Constitution of India. Reliance on this judgment is misplaced.

Reliance was also placed on yet another judgment of the Supreme Court in the matter of State of U.P. v. Rafiquddin and ors., AIR 1988 SC 162. In the said matter, two yearly examinations were held and two select lists were prepared. The persons who could not find place in the first select list of the earlier year were sought to be appointed by lowering down the norms. By this, the State wanted to make an inroad into the right of those persons who came to be included in the second select list. Under the set of the circumstances, the Supreme Court observed that seniority in the service is determined on the basis of the year of the competitive examination irrespective of the date of appointment and the inter-se seniority of the candidates recruited to the service is determined on the basis of their ranking in the merit list. The Supreme Court also observed that appointment of the persons who were not in the first select list was in breach of the Rules because the second list had already been prepared and the persons included in the second select list acquired independent right to the post. Present again is not a case where the State Government is trying to lower down the minimum qualifications or the norms or is trying to appoint a person who was in the wait list of the first year against the vacancies of the second year. Present is a case in which to obtain recommendations from the State Public Service Commission, the State was acting within its authority and was discharging the constitutional obligations under Article 320 of the Constitution of India and at the same time, the Public Service Commission was also justified in submitting its reports.

So far as the third question is concerned, the submission is that the recommendations made by the GPSC show absolute and utter non-application of mind. The submission in fact is that if the Reviewing Officer did not appreciate the report submitted by the Reporting Officer and the Top Level Selection Committee after considering everything in juxtaposition evaluated the officer as "very good" then the Public Service Commission should not have interfered in the matter except for the compelling reasons.

In the opinion of this Court, the argument is of frustration. In the present matter, it is nobody's case that either the Top Level Selection Committee could re-record the service records or the Public Service Commission could re-record the service records or give

the gradings afresh. In fact the grades are given by the Reporting Officer and the Reviewing authorities. In the present matter, these two authorities, i.e. Top Level Selection Committee and the Public Service Commission were not re-recording the C.Rs. In fact, one authority was preparing the select list, while the other, after reviewing the concerned records, was submitting its recommendations. The question of application of mind is a question personal to the authority which is is appreciating particular set of facts. On a given set of facts, one may say that the glass is a half-full while the other may say that it is half empty. In a given set of circumstances, on the available material, one authority may find a candidate fit, then so far as the said authority is concerned, the said opinion shall be final, but that authority cannot thrust its opinion upon the other authority if he wants to say that the man is not fit.

Barring the allegation of non-application of mind or non-consideration of the record by the Public Service Commission nothing else was submitted before the Court. In a case where the allegations of non-application of mind are levelled or non-consideration of the records are levelled, then such material should be placed on the record to satisfy the judicial conscience of the Court that if the same was considered by the authority, then no finding contrary to the interest of the party could be recorded. In the present matter, the report of the Reporting Officer and of the Reviewing Officer were placed along with the complete record before the Top Level Selection Committee and the complete material along with the select list was placed before the Public Service Commission. If two authorities have given different opinion in form of the select list and the recommendations, then it cannot be said that the Public Service Commission acted contrary to the authority conferred upon it or did not consider the material which was relevant for the purpose of recording its opinion.

The argument of non-consideration of the material and non-application of mind deserves to and is accordingly rejected.

At this stage, I would again refer to the Government Resolutions wherein consultation with the Public Service Commission for giving grades etc. was made. A fair reading of the notification would show that the consultation was in relation to a particular manner, mode and method in which a particular officer was to be graded as "outstanding", "very good", "good" or "fair".

It had nothing to do with the appointment or promotion. If the Public Service Commission agreed to the proposal of the Department or the Government, that officer can be assessed as "outstanding", "very good", "good" or fair or "unfit", then simply because they have consented to the system of grading they would not lose their jurisdiction available to them under Article 320 of the Constitution.

In the opinion of this Court, the submissions made by the learned Counsel for the petitioner cannot be accepted especially when the post of the Chief Engineer is a selection post and no allegations of arbitrariness or nepotism have been levelled either against the State Government or the GPSC. The State Government acted within its authority in considering the select list and the recommendations of GPSC and in issuing orders of promotion.

Taking into consideration the totality of the circumstances and for the reasons aforesaid, I find no reason to interfere in the matter. The petition deserves to and is accordingly dismissed.

(R.S. Garg, J.)

Sreeram.